

AMENDED IN ASSEMBLY AUGUST 14, 2006

AMENDED IN SENATE MAY 26, 2006

AMENDED IN SENATE APRIL 26, 2006

**SENATE BILL**

**No. 1250**

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**Introduced by Senator Perata**  
(Coauthor: Assembly Member Levine)

February 8, 2006

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An act to amend Sections 25620, 25620.1, ~~25620.8, 25740, 25741, 25620.2, 25620.5, 25620.8, 25620.11, 25742, 25743, 25744, 25746, 25744, 25745, 25746, 25647, 25748, and 25751~~ of, to add Sections 25620.15 and 25740.5 to, and to repeal Sections 25620.9, ~~25745, 25749, and 25750~~ of, the Public Resources Code, and to amend Sections 381, 399.8, and 895 of, to amend and repeal Sections 399 and 399.4 of, and to repeal Sections 383, 383.6, 384.1, 399.1, 399.2, 399.3, 399.6, 399.7, and 399.9 of, the Public Utilities Code, relating to energy, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 1250, as amended, Perata. Energy: cost-effective energy efficiency programs: renewable energy resources.

(1) Under existing law, the Public Utilities Commission (PUC) has regulatory authority over public utilities, including electrical corporations. Existing law requires the PUC to require Pacific Gas and Electric Company, San Diego Gas and Electric, and Southern California Edison to identify a separate electrical rate component to fund programs that enhance system reliability and provide in-state benefits. This rate component is a nonbypassable element of local

distribution and collected on the basis of usage. Existing PUC resolutions refer to the nonbypassable rate component as a “public goods charge.” The public goods charge moneys are collected to support cost-effective energy efficiency and conservation activities, public interest research and development not adequately provided by competitive and regulated markets, and renewable energy resources. The moneys collected by the public goods charge for renewable energy are required to be transferred to the State Energy Resources Conservation and Development Commission (Energy Commission), for deposit in the Renewable Resource Trust Fund, for use for the renewable energy resources program. Some of the money in the fund, and in the accounts in the fund, is continuously appropriated to the Energy Commission for specified purposes related to renewable energy resources. The moneys collected by the public goods charge for public interest research and development are required to be transferred to the Energy Commission, for deposit in the Public Interest Research, Development, and Demonstration Fund, for use for specified purposes, including the public interest energy research, demonstration, and development program.

~~This bill would delete the continuous appropriation of certain moneys in the fund to the Energy Commission for the renewable energy resources program.~~

(2) Under the Reliable Electric Service Investments Act, the Energy Commission is required to hold moneys collected for renewable energy and deposited in the Renewable Resource Trust Fund and moneys collected for public interest research, development, and demonstration and deposited in the Public Interest Research, Development, and Demonstration Fund, until further action by the Legislature. The act requires the Energy Commission to create an initial investment plan, in accordance with specified objectives, to govern the allocation of funds in the Renewable Resource Trust Fund and Public Interest Research, Development, and Demonstration Fund, collected between January 1, 2002, and January 1, 2007. The act requires the Energy Commission, on or before March 31, 2006, to prepare an investment plan proposing the application of moneys collected between January 1, 2007, and January 1, 2012, in accordance with specified objectives.

The bill would revise and recast the public interest energy research, demonstration, and development program, and the renewable energy resources program, including the purposes for which money in the

Renewable Resource Trust Fund may be used, thereby making an appropriation. The bill would make other related changes, including in the Reliable Electric Service Investments Act.

(3) The Reliable Electric Service Investments Act requires the Governor to appoint an independent review panel to prepare and submit to the Legislature and Energy Commission, by January 1, 2005, a report evaluating the energy efficiency, renewable energy, and research, development, and demonstration programs funded by the public goods charge and to make recommendations relative to specified matters.

This bill would delete these requirements.

(4) The Reliable Electric Service Investments Act was enacted in 2 separate bills, each containing identical language.

This bill would repeal duplicative sections of the act.

(5) Existing law requires the PUC, in evaluating energy efficiency investments under its existing statutory authorities, to ensure that no energy efficiency funds are used to provide incentives for the purchase of new energy-efficient refrigerators.

This bill would delete that refrigerator purchase restriction.

(6) Existing law establishes a surcharge on all natural gas consumed in the state to fund certain low-income assistance programs, cost-effective energy efficiency and conservation activities, and public interest research and development (natural gas public goods charge). Existing law requires a public utility gas corporation, as defined, to collect the natural gas public goods charge from natural gas consumers, as specified. The money from the natural gas public goods charge is deposited in the Gas Consumption Surcharge Fund, and is continuously appropriated to specified entities, including to the PUC, or to an entity designated by the commission, to fund low-income assistance programs, cost-effective energy efficiency and conservation activities, and public interest research and development not adequately provided by the competitive and regulated markets. Existing law authorizes the Energy Commission, if it is designated by the PUC to receive funds for public interest research and development, to administer the program pursuant to the Public Interest Energy Research, Demonstration, and Development Program.

~~This bill would delete the authorization that, if it is designated by the PUC to receive funds from the Natural Gas Consumption Surcharge Fund for public interest research and development, the Energy Commission may administer the program pursuant to the~~

~~Public Interest Energy Research, Demonstration, and Development Program, if the Energy Commission is so designated, require the Controller to transfer funds to a separate subaccount in the Public Interest Research, Development, and Demonstration Fund to pay the Energy Commission for specified costs.~~

(7) This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: yes. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 25620 of the Public Resources Code is  
2 amended to read:

3 25620. The Legislature hereby finds and declares all of the  
4 following:

5 (a) It is in the best interests of the people of this state that the  
6 quality of life of its citizens be improved by providing  
7 environmentally sound, safe, reliable, and affordable energy  
8 services and products.

9 (b) To improve the quality of life of this state's citizens, it is  
10 proper and appropriate for the state to undertake public interest  
11 energy research, development, and demonstration projects that  
12 are not adequately provided for by competitive and regulated  
13 energy markets.

14 (c) Public interest energy research, demonstration, and  
15 development projects should advance energy science or  
16 technologies of value to California citizens and should be  
17 consistent with the policies of this chapter.

18 ~~(d) The commission should adopt a five-year investment plan~~  
19 ~~to ensure compliance with the policies and provisions of this~~  
20 ~~chapter in the administration of public interest energy research,~~  
21 ~~demonstration, and development programs.~~

22 SEC. 2. Section 25620.1 of the Public Resources Code is  
23 amended to read:

24 25620.1. (a) The commission shall develop, implement, and  
25 administer the Public Interest Research, Development, and  
26 Demonstration Program that is hereby created. The program shall  
27 include a full range of research, development, and demonstration  
28 activities that, as determined by the commission, are not

adequately provided for by competitive and regulated markets.  
The commission shall administer the program consistent with the policies of this chapter.

~~(b) (1) The general goal of the program is to provide public value for the benefit of California and its citizens through the development of technologies that will improve environmental quality, enhance system reliability, increase efficiency of energy-using technologies, lower system costs, or provide other tangible energy or environmental benefits to electric and natural gas utility customers.~~

~~(2) The specific goals of the program for the 2007–2011 investment cycle shall be all of the following:~~

~~(A) Petroleum use reduction and efficiency in the transportation sector.~~

~~(B) Natural gas appliance efficiency.~~

~~(C) Commercialization of advanced electric generation technologies, including integrated gasification combined cycle (IGCC) coal generation technology that exceeds state greenhouse gas performance standards.~~

~~(D) Technologies for achieving greenhouse gas reductions in the utility sector.~~

*(b) The general goal of the program is to develop, and help bring to market, energy technologies that provide increased environmental benefits, greater system reliability, and lower system costs, and that provide tangible benefits to electric utility customers through the following investments:*

*(1) Advanced transportation technologies that reduce air pollution and greenhouse gas emissions beyond applicable standards, and that benefit electricity and natural gas ratepayers.*

*(2) Increased energy efficiency in buildings, appliances, lighting, and other applications beyond applicable standards, and that benefit electric utility customers.*

*(3) Advanced electricity generation technologies that exceed applicable standards to increase reductions in greenhouse gas emissions from electricity generation, and that benefit electric utility customers.*

*(4) Advanced electricity technologies that reduce or eliminate consumption of water or other finite resources, increase use of renewable energy resources, or improve transmission or*

1 *distribution of electricity generated from renewable energy*  
2 *resources.*

3 (c) To achieve the goals established in subdivision (b), the  
4 commission shall adopt a portfolio approach for the program that  
5 does all of the following:

6 (1) Effectively balances the risks, benefits, and time horizons  
7 for various activities and investments that will provide tangible  
8 energy or environmental benefits for California ~~electric and~~  
9 ~~natural gas utility~~ *electricity* customers.

10 (2) Emphasizes innovative energy supply and end use  
11 technologies, focusing on their reliability, affordability, and  
12 environmental attributes.

13 (3) Includes projects that have the potential to enhance  
14 transmission and distribution capabilities.

15 (4) Includes projects that have the potential to enhance the  
16 reliability, peaking power, and storage capabilities of renewable  
17 energy.

18 (5) Demonstrates a balance of benefits to all sectors that  
19 contribute to the funding under Section 399.8 of the Public  
20 Utilities Code.

21 (6) Addresses key technical and scientific barriers.

22 (7) Demonstrates a balance between short-term, mid-term, and  
23 long-term potential.

24 (8) Ensures that prior, current, and future research not be  
25 unnecessarily duplicated.

26 (9) Provides for the future market utilization of projects  
27 funded through the program.

28 *(10) Ensures an open project selection process and*  
29 *encourages the awarding of research funding for a diverse type*  
30 *of research as well as a diverse grant recipient base and equally*  
31 *considers research proposals from the public and private sectors.*

32 ~~(10)~~

33 *(11) Coordinates with other related research programs.*

34 (d) The term “award,” as used in this chapter, may include, but  
35 is not limited to, contracts, grants, interagency agreements, loans,  
36 and other financial agreements designed to fund public interest  
37 research, demonstration, and development projects or programs.

38 *SEC. 3. Section 25620.2 of the Public Resources Code is*  
39 *amended to read:*

1 25620.2. (a) To ensure the efficient implementation and  
2 administration of the Public Interest Research, Development, and  
3 Demonstration Program, the commission shall do both of the  
4 following:

5 (1) Develop procedures for the solicitation of award  
6 applications for project or program funding, and to ensure  
7 efficient program management.

8 (2) Evaluate and select programs and projects, based on merit,  
9 that will be funded under the program.

10 (b) The commission shall adopt regulations to implement the  
11 program, in accordance with the following procedures:

12 (1) Prepare a preliminary text of the proposed regulation and  
13 provide a copy of the preliminary text to any person requesting a  
14 copy.

15 (2) Provide public notice of the proposed regulation to any  
16 person who has requested notice of the regulations prepared by  
17 the commission. The notice shall contain all of the following:

18 (A) A clear overview explaining the proposed regulation.

19 (B) Instructions on how to obtain a copy of the proposed  
20 regulations.

21 (C) A statement that if a public hearing is not scheduled for  
22 the purpose of reviewing a proposed regulation, any person may  
23 request, not later than 15 days prior to the close of the written  
24 comment period, a public hearing conducted in accordance with  
25 commission procedures.

26 (3) Accept written public comments for 30 calendar days after  
27 providing the notice required in paragraph (2).

28 (4) Certify that all written comments were read and considered  
29 by the commission.

30 (5) Place all written comments in a record that includes copies  
31 of any written factual support used in developing the proposed  
32 regulation, including written reports and copies of any transcripts  
33 or minutes in connection with any public hearings on the  
34 adoption of the regulation. The record shall be open to public  
35 inspection and available to the courts.

36 (6) Provide public notice of any substantial revision of the  
37 proposed regulation at least 15 days prior to the expiration of the  
38 deadline for public comments and comment period using the  
39 procedures provided in paragraph (2).

1 (7) Conduct public hearings, if a hearing is requested by an  
2 interested party, that shall be conducted in accordance with  
3 commission procedures.

4 (8) Adopt any proposed regulation at a regularly scheduled  
5 and noticed meeting of the commission. The regulation shall  
6 become effective immediately unless otherwise provided by the  
7 commission.

8 (9) Publish any adopted regulation in a manner that makes  
9 copies of the regulation easily available to the public. Any  
10 adopted regulation shall also be made available on the Internet.  
11 The commission shall transmit a copy of an adopted regulation to  
12 the Office of Administrative Law for publication, or, if the  
13 commission determines that printing the regulation is  
14 impractical, an appropriate reference as to where a copy of the  
15 regulation may be obtained.

16 (10) Notwithstanding any other provision of law, this  
17 subdivision provides an interim exception from the requirements  
18 of Chapter 3.5 (commencing with Section 11340) of Part 1 of  
19 Division 3 of Title 2 of the Government Code for regulations  
20 required to implement Sections 25620.1 and 25620.2 that are  
21 adopted under the procedures specified in this subdivision.

22 (11) This subdivision shall become inoperative on January 1,  
23 ~~2007~~ 2012, unless a later enacted statute deletes or extends that  
24 date. However, after January 1, ~~2007~~ 2012, the commission is not  
25 required to repeat any procedural step in adopting a regulation  
26 that has been completed before January 1, ~~2007~~ 2012, using the  
27 procedures specified in this subdivision.

28 *SEC. 4. Section 25620.5 of the Public Resources Code is*  
29 *amended to read:*

30 25620.5. (a) The commission may solicit applications for  
31 awards, using a sealed competitive bid, competitive negotiation  
32 process, commission-issued intradepartmental master agreement,  
33 the methods for selection of professional services firms set forth  
34 in Chapter 10 (commencing with Section 4525) of Division 5 of  
35 Title 1 of the Government Code, interagency agreement, single  
36 source, or sole source method. When scoring teams are convened  
37 to review and score proposals, the scoring teams may include  
38 persons not employed by the commission, as long as employees  
39 of the state constitute no less than 50 percent of the membership  
40 of the scoring team. A person participating on a scoring team



1 may not have any conflict of interest with respect to the proposal  
2 before the scoring team.

3 (b) A sealed bid method may be used when goods and services  
4 to be acquired can be described with sufficient specificity so that  
5 bids can be evaluated against specifications and criteria set forth  
6 in the solicitation for bids.

7 (c) The commission may use a competitive negotiation process  
8 in any of the following circumstances:

9 (1) Whenever the desired award is not for a fixed price.

10 (2) Whenever project specifications cannot be drafted in  
11 sufficient detail so as to be applicable to a sealed competitive bid.

12 (3) Whenever there is a need to compare the different price,  
13 quality, and structural factors of the bids submitted.

14 (4) Whenever there is a need to afford bidders an opportunity  
15 to revise their proposals.

16 (5) Whenever oral or written discussions with bidders  
17 concerning the technical and price aspects of their proposals will  
18 provide better results to the state.

19 (6) Whenever the price of the award is not the determining  
20 factor.

21 (d) The commission may establish interagency agreements.

22 (e) The commission may provide awards on a single source  
23 basis by choosing from among two or more parties or by  
24 soliciting multiple applications from parties capable of supplying  
25 or providing similar goods or services. The cost to the state shall  
26 be reasonable and the commission may only enter into a single  
27 source agreement with a particular party if the commission  
28 determines that it is in the state's best interests.

29 (f) The commission, in accordance with subdivision (g) and in  
30 consultation with the Department of General Services, may  
31 provide awards on a sole source basis when the cost to the state is  
32 reasonable and the commission makes any of the following  
33 determinations:

34 (1) The proposal was unsolicited and meets the evaluation  
35 criteria of this chapter.

36 (2) The expertise, service, or product is unique.

37 (3) A competitive solicitation would frustrate obtaining  
38 necessary information, goods, or services in a timely manner.

39 (4) The award funds the next phase of a multiphased proposal  
40 and the existing agreement is being satisfactorily performed.

(5) When it is determined by the commission to be in the best interests of the state.

(g) The commission may not use a sole source basis for an award pursuant to subdivision (f), unless both of the following conditions are met:

(1) The commission, at least ~~30~~ 60 days prior to taking an action pursuant to subdivision (f), notifies the Joint Legislative Budget Committee *and the relevant policy committees in both houses of the Legislature*, in writing, of its intent to take the proposed action.

(2) The Joint Legislative Budget Committee either approves or does not disapprove the proposed action within ~~30~~ 60 days from the date of notification required by paragraph (1).

(h) The provisions of this section are severable. If any provision of this section or its application is held to be invalid, that invalidity does not affect other provisions or applications that can be given effect without the invalid provision or application.

~~SEC. 3.~~

SEC. 5. Section 25620.8 of the Public Resources Code is amended to read:

25620.8. The commission shall prepare and submit to the Legislature an annual report, not later than March 31 of each year, on awards made pursuant to this chapter and progress toward achieving the goals set forth in Section 25620.1. The report shall include information on the names of award recipients, the amount of awards, and the types of projects funded, an evaluation of the success of funded projects, and recommendations for improvements in the program. The report shall set forth the actual costs of programs or projects funded by the commission, the results achieved, and how the actual costs and results compare to the expected costs and benefits. The commission shall establish procedures for protecting confidential or proprietary information and shall consult with all interested parties in the preparation of the annual report.

~~SEC. 4.~~

SEC. 6. Section 25620.9 of the Public Resources Code is repealed.

SEC. 7. *Section 25620.11 of the Public Resources Code is amended to read:*

1 25620.11. (a) The commission shall regularly convene an  
2 advisory board that shall make recommendations to guide the  
3 commission's selection of programs and projects to be funded  
4 under this chapter. The advisory board shall include as  
5 appropriate, but not be limited to, representatives from the Public  
6 Utilities Commission, consumer organizations, environmental  
7 organizations, and electrical corporations subject to the funding  
8 requirements of Section 381 of the Public Utilities Code.

9 (b) *Three members of the Senate, appointed by the Senate*  
10 *President Pro Tempore, and three members of the Assembly,*  
11 *appointed by the Speaker of the Assembly, may meet with the*  
12 *advisory board and participate in its activities to the extent that*  
13 *such participation is not incompatible with their respective*  
14 *positions as Members of the Legislature.*

15 ~~SEC. 5.~~

16 SEC. 8. Section 25620.15 is added to the Public Resources  
17 Code, to read:

18 25620.15. (a) In order to ensure that prudent investments in  
19 research, development, and demonstration of energy efficient  
20 technologies continue to produce substantial economic,  
21 environmental, public health, and reliability benefits, it is the  
22 policy of the state and the intent of the Legislature that funds  
23 made available, upon appropriation, for energy related public  
24 interest research, development, and demonstration programs shall  
25 be used to advance science or technology that is not adequately  
26 provided by competitive and regulated markets.

27 (b) Notwithstanding any other provision of law, money  
28 collected for public interest research, development, and  
29 demonstration pursuant to ~~this section~~ *Section 399.8 of the Public*  
30 *Utilities Code* shall be transferred to the Public Interest Research,  
31 Development, and Demonstration Fund. Money collected  
32 between January 1, 2007, and January 1, 2012, shall be used for  
33 the purposes specified in this chapter.

34 (c) In lieu of the Public Utilities Commission retaining funds  
35 authorized pursuant to Section 381 of the Public Utilities Code  
36 for investments made by electrical corporations in public interest  
37 research, development, and demonstration projects for  
38 transmission and distribution functions, up to 10 percent of the  
39 funds transferred to the commission pursuant to subdivision (b)  
40 shall be awarded to electrical corporations for public interest

1 research, development, and demonstration projects for  
2 transmission and distribution functions consistent with the  
3 policies and subject to the requirements of this chapter.

4 ~~SEC. 6. Section 25740 of the Public Resources Code is~~  
5 ~~amended to read:~~

6 ~~25740. It is the intent of the Legislature in establishing this~~  
7 ~~program, to increase the amount of electricity generated from~~  
8 ~~eligible renewable energy resources per year, so that it equals at~~  
9 ~~least 20 percent of the total retail sales of electricity in California~~  
10 ~~per year by December 31, 2010.~~

11 ~~SEC. 7.~~

12 ~~SEC. 9. Section 25740.5 is added to the Public Resources~~  
13 ~~Code, to read:~~

14 ~~25740.5. (a) In order to~~ *The commission shall optimize*  
15 *public investment and ensure that the most cost-effective and*  
16 *efficient investments in renewable resources are vigorously*  
17 *pursued, the commission shall create an investment plan as set*  
18 *forth in paragraphs (1) to (3), inclusive, to govern the allocation*  
19 *of funds provided pursuant to Article 15 (commencing with*  
20 *Section 399) of Chapter 2.3 of Part 1 of Division 1 of the Public*  
21 *Utilities Code. The*

22 *(b) The commission's long-term goal shall be a fully*  
23 *competitive and self-sustaining California renewable energy*  
24 *supply. The investment plan shall be in accordance with all of the*  
25 *following:*

26 ~~(1) The investment plan's objective shall be to increase, in the~~

27 *(c) The program shall be to increase, in the near term, the*  
28 *quantity of California's electricity generated by in-state*  
29 *renewable energy resources, while protecting system reliability,*  
30 *fostering resource diversity, and obtaining the greatest*  
31 *environmental benefits for California residents.*

32 ~~(2) An additional objective of the plan shall be to identify and~~

33 *(d) An additional objective of the program shall be to identify*  
34 *and support emerging renewable energy technologies that have*  
35 *the greatest near-term commercial promise and that merit*  
36 *targeted assistance.*

37 ~~(3) The investment plan shall contain specific numerical~~  
38 ~~targets, reflecting the projected impact of the plan, for both of the~~  
39 ~~following:~~

1 ~~(A) Increased quantity of California electrical generation~~  
2 ~~produced from emerging technologies and from overall~~  
3 ~~renewable resources.~~

4 ~~(B) Increased supply of renewable generation available from~~  
5 ~~facilities other than those selling to investor-owned utilities under~~  
6 ~~contracts entered into prior to 1996 under the federal Public~~  
7 ~~Utilities Regulatory Policies Act of 1978 (P.L. 95-617).~~

8 ~~(b) The commission shall, on an annual basis, evaluate~~  
9 ~~progress on meeting the targets set forth in subparagraphs (A)~~  
10 ~~and (B) of paragraph (3) of subdivision (a), or any substitute~~  
11 ~~provisions adopted by the Legislature upon review of the~~  
12 ~~investment plan, and assess the impact of the investment plan on~~  
13 ~~reducing the cost to Californians of renewable energy generation.~~

14 ~~(c) In preparing these investment plans, the commission shall~~  
15 ~~recommend allocations among all of the following:~~

16 ~~(e) The Legislature recommends allocations among all of the~~  
17 ~~following:~~

18 ~~(1) (A) Except as provided in subparagraph (B), production~~  
19 ~~incentives for new renewable energy, including repowered or~~  
20 ~~refurbished renewable energy.~~

21 ~~(B) Allocations shall not be made for renewable energy that is~~  
22 ~~generated by a project that remains under a power purchase~~  
23 ~~contract with an electrical corporation originally entered into~~  
24 ~~prior to September 24, 1996, whether amended or restated~~  
25 ~~thereafter.~~

26 ~~(C) Notwithstanding subparagraph (B), production incentives~~  
27 ~~for incremental new, repowered, or refurbished renewable energy~~  
28 ~~from existing projects under a power purchase contract with an~~  
29 ~~electrical corporation originally entered into prior to September~~  
30 ~~24, 1996, whether amended or restated thereafter, may be~~  
31 ~~allowed in any month, if all of the following occur:~~

32 ~~(i) The project's power purchase contract provides that all~~  
33 ~~energy delivered and sold under the contract is paid at a price~~  
34 ~~that does not exceed the Public Utilities Commission approved~~  
35 ~~short-run avoided cost of energy.~~

36 ~~(ii) Either of the following:~~

37 ~~(I) The power purchase contract is amended to provide that the~~  
38 ~~kilowatthours used to determine the capacity payment in any~~  
39 ~~time-of-delivery period in any month under the contract shall be~~  
40 ~~equal to the actual kilowatthour production, but no greater than~~

1 the five-year average of the kilowatthours delivered for the  
2 corresponding time-of-delivery period and month, in the years  
3 1994 to 1998, inclusive.

4 (II) If a project's installed capacity as of December 31, 1998,  
5 is less than 75 percent of the nameplate capacity as stated in the  
6 power purchase contract, the power purchase contract is amended  
7 to provide that the kilowatthours used to determine the capacity  
8 payment in any time-of-delivery period in any month under the  
9 contract shall be equal to the actual kilowatthour production, but  
10 no greater than the product of the five-year average of the  
11 kilowatthours delivered for the corresponding time-of-delivery  
12 period and month, in the years 1994 to 1998, inclusive, and the  
13 ratio of installed capacity as of December 31 of the previous  
14 year, but not to exceed contract nameplate capacity, to the  
15 installed capacity as of December 31, 1998.

16 (iii) The production incentive is payable only with respect to  
17 the kilowatthours delivered in a particular month that exceeds the  
18 corresponding five-year average calculated pursuant to clause  
19 (ii).

20 (2) Rebates, buydowns, or equivalent incentives for emerging  
21 renewable technologies.

22 (3) Customer education.

23 (4) Incentives for reducing fuel costs that are confirmed to the  
24 satisfaction of the commission at solid fuel biomass energy  
25 facilities in order to provide demonstrable environmental and  
26 public benefits, including, but not limited to, air quality.

27 (5) Solar thermal generating resources that enhance the  
28 environmental value or reliability of the electrical system and  
29 that require financial assistance to remain economically viable, as  
30 determined by the commission. The commission may require  
31 financial disclosure from applicants for purposes of this  
32 paragraph.

33 (6) Specified fuel cell technologies, if the commission makes  
34 all of the following findings:

35 (A) The specified technologies have similar or better air  
36 pollutant characteristics than renewable technologies in the  
37 ~~investment plan~~ *report made pursuant to Section 25748*.

38 (B) The specified technologies require financial assistance to  
39 become commercially viable by reference to wholesale  
40 generation prices.

1 (C) The specified technologies could contribute significantly  
2 to the infrastructure development or other innovation required to  
3 meet the long-term objective of a self-sustaining, competitive  
4 supply of renewable energy.

5 (7) Existing wind-generating resources, if the commission  
6 finds that the existing wind-generating resources are a  
7 cost-effective source of reliable energy and environmental  
8 benefits compared with other eligible sources, and that the  
9 existing wind-generating resources require financial assistance to  
10 remain economically viable. The commission may require  
11 financial disclosure from applicants for the purposes of this  
12 paragraph.

13 ~~(d)~~

14 (f) Notwithstanding any other provision of law, moneys  
15 collected for renewable energy pursuant to Article 15  
16 (commencing with Section 399) of Chapter 2.3 of Part 1 of  
17 Division 1 of the Public Utilities Code shall be transferred to the  
18 Renewable Resource Trust Fund. Moneys collected between  
19 January 1, 2007, and January 1, 2012, shall be used for the  
20 purposes specified in this chapter.

21 ~~SEC. 8. Section 25741 of the Public Resources Code is~~  
22 ~~amended to read:~~

23 ~~25741. As used in this chapter, the following terms have the~~  
24 ~~following meaning:~~

25 ~~(a) "In-state renewable electricity generation facility" means a~~  
26 ~~facility that meets all of the following criteria:~~

27 ~~(1) The facility uses biomass, solar thermal, photovoltaic,~~  
28 ~~wind, geothermal, fuel cells using renewable fuels, small~~  
29 ~~hydroelectric generation of 30 megawatts or less, digester gas,~~  
30 ~~municipal solid waste conversion, landfill gas, ocean wave,~~  
31 ~~ocean thermal, or tidal current, and any additions or~~  
32 ~~enhancements to the facility using that technology.~~

33 ~~(2) The facility meets one of the following requirements:~~

34 ~~(A) The facility is located in the state or near the border of the~~  
35 ~~state with the first point of connection to the transmission~~  
36 ~~network within this state and electricity produced by the facility~~  
37 ~~is delivered to an in-state location.~~

38 ~~(B) The facility has its first point of interconnection to the~~  
39 ~~transmission network outside the state and satisfies all of the~~  
40 ~~following requirements:~~

1 ~~(i) It is connected to the transmission network within the~~  
2 ~~Western Electricity Coordinating Council (WECC) service~~  
3 ~~territory.~~

4 ~~(ii) It commences initial commercial operation after January 1,~~  
5 ~~2005.~~

6 ~~(iii) Electricity produced by the facility is delivered to an~~  
7 ~~in-state location.~~

8 ~~(iv) It will not cause or contribute to a violation of a California~~  
9 ~~environmental quality standard or requirement.~~

10 ~~(v) If the facility is outside of the United States, it is developed~~  
11 ~~and operated in a manner that is as protective of the environment~~  
12 ~~as a similar facility located in the state.~~

13 ~~(vi) It participates in the accounting system to verify~~  
14 ~~compliance with the renewables portfolio standard by retail~~  
15 ~~sellers, once established by the commission pursuant to~~  
16 ~~subdivision (b) of Section 399.13 of the Public Utilities Code.~~

17 ~~(C) The facility meets the requirements of clauses (i), (iii), (iv),~~  
18 ~~(v), and (vi) in subparagraph (B), but does not meet the~~  
19 ~~requirements of clause (ii) because it commences initial~~  
20 ~~operation prior to January 1, 2005, if the facility satisfies either~~  
21 ~~of the following requirements:~~

22 ~~(i) The electricity is from incremental generation resulting~~  
23 ~~from expansion or repowering of the facility.~~

24 ~~(ii) The facility has been part of the existing baseline of~~  
25 ~~eligible renewable energy resources of a retail seller established~~  
26 ~~pursuant to subdivision (a) of Section 399.15 of the Public~~  
27 ~~Utilities Code.~~

28 ~~(3) For the purposes of this subdivision, “solid waste~~  
29 ~~conversion” means a technology that uses a noncombustion~~  
30 ~~thermal process to convert solid waste to a clean-burning fuel for~~  
31 ~~the purpose of generating electricity, and that meets all of the~~  
32 ~~following criteria:~~

33 ~~(A) The technology does not use air or oxygen in the~~  
34 ~~conversion process, except ambient air to maintain temperature~~  
35 ~~control.~~

36 ~~(B) The technology produces no discharges of air~~  
37 ~~contaminants or emissions, including greenhouse gases as~~  
38 ~~defined in Section 42801.1 of the Health and Safety Code.~~

39 ~~(C) The technology produces no discharges to surface or~~  
40 ~~groundwaters of the state.~~



1 ~~(D) The technology produces no hazardous wastes.~~

2 ~~(E) To the maximum extent feasible, the technology removes~~  
3 ~~all recyclable materials and marketable green waste compostable~~  
4 ~~materials from the solid waste stream prior to the conversion~~  
5 ~~process and the owner or operator of the facility certifies that~~  
6 ~~those materials will be recycled or composted.~~

7 ~~(F) The facility at which the technology is used is in~~  
8 ~~compliance with all applicable laws, regulations, and ordinances.~~

9 ~~(G) The technology meets any other conditions established by~~  
10 ~~the commission.~~

11 ~~(H) The facility certifies that a local agency sending solid~~  
12 ~~waste to the facility diverted at least 30 percent of all solid waste~~  
13 ~~it collects through solid waste reduction, recycling, and~~  
14 ~~composting. For purposes of this paragraph, “local agency”~~  
15 ~~means a city, county, or special district, or subdivision thereof,~~  
16 ~~that is authorized to provide solid waste handling services.~~

17 ~~(b) “Renewable energy public goods charge” means that~~  
18 ~~portion of the nonbypassable system benefits charge authorized~~  
19 ~~to be collected and to be transferred to the Renewable Resource~~  
20 ~~Trust Fund pursuant to the Reliable Electric Service Investments~~  
21 ~~Act (Article 15 (commencing with Section 399) of Chapter 2.3 of~~  
22 ~~Part 1 of Division 1 of the Public Utilities Code).~~

23 ~~(c) “Retail seller” has the same meaning as that term is defined~~  
24 ~~in Section 399.12 of the Public Utilities Code.~~

25 ~~(d) “Delivered” and “delivery” mean the electricity output of~~  
26 ~~an in-state renewable electric generation facility that is used to~~  
27 ~~serve end-use retail customers located within the state. Subject to~~  
28 ~~verification by the accounting system established by the~~  
29 ~~commission pursuant to subdivision (b) of Section 399.13 of the~~  
30 ~~Public Utilities Code, electricity shall be deemed delivered if it is~~  
31 ~~either provided at a location within the state, or, if provided at a~~  
32 ~~location adjacent to the state, the electricity is subsequently~~  
33 ~~metered and settled at a location within the state.~~

34 ~~SEC. 9.~~

35 ~~SEC. 10.~~ Section 25742 of the Public Resources Code is  
36 amended to read:

37 25742. (a) ~~\_\_\_\_\_~~*Ten* percent of the funds collected pursuant  
38 to the renewable energy public goods charge shall be used for  
39 programs that are designed to achieve fully competitive and  
40 self-sustaining existing in-state renewable electricity generation

1 facilities, and to secure for the state the environmental,  
2 economic, and reliability benefits that continued operation of  
3 those facilities will provide, during the 2007–2011 investment  
4 cycle. Eligibility for incentives under this section shall be limited  
5 to those technologies found eligible for funds by the commission  
6 pursuant to paragraphs (4), (5), and (7) of subdivision-(e) (e) of  
7 Section 25740.5.

8 (b) Any funds used to support in-state renewable electricity  
9 generation facilities pursuant to this section shall be expended in  
10 accordance with the provisions of ~~the commission's five-year~~  
11 ~~investment plan~~ and this chapter.

12 (c) Facilities that are eligible to receive funding pursuant to  
13 this section shall be registered in accordance with criteria  
14 developed by the commission and those facilities shall not  
15 receive payments for any electricity produced that has any of the  
16 following characteristics:

17 (1) Is sold at monthly average rates equal to or greater than the  
18 applicable target price, as determined by the commission.

19 (2) Is used onsite.

20 (d) Existing facilities generating electricity from biomass  
21 energy shall be eligible for funding and otherwise considered an  
22 in-state renewable electricity generation facility only if they  
23 report to the commission the types and quantities of biomass  
24 fuels used and certify to the satisfaction of the commission that  
25 fuel utilization is limited to the fuels specified in subdivision (f)  
26 of Section 25743. The commission shall report the types and  
27 quantities of biomass fuels used by each facility to the  
28 Legislature in the reports prepared pursuant to Section 25748.

29 (e) Each existing facility seeking an award pursuant to this  
30 section shall be evaluated by the commission to determine the  
31 amount of the funds being sought, the cumulative amount of  
32 funds the facility has received previously from the commission  
33 and other state sources, the value of any past and current federal  
34 or state tax credits, the facility's contract price for energy and  
35 capacity, the prices received by similar facilities, the market  
36 value of the facility, and the likelihood that the award will make  
37 the facility competitive and self-sustaining within the 2007–2011  
38 investment cycle. The commission shall use this evaluation to  
39 determine the value of an award to the public relative to other  
40 renewable energy investment alternatives. The commission shall

1 compile its findings and report them to the Legislature in the  
2 reports prepared pursuant to Section 25748.

3 ~~SEC. 10. Section 25743 of the Public Resources Code is~~  
4 ~~amended to read:~~

5 ~~25743. (a) \_\_\_\_\_ percent of the money collected pursuant to~~  
6 ~~the renewable energy public goods charge shall be used for~~  
7 ~~programs designed to foster the development of new in-state~~  
8 ~~renewable electricity generation facilities, and to secure for the~~  
9 ~~state the environmental, economic, and reliability benefits that~~  
10 ~~operation of those facilities will provide.~~

11 ~~(b) Any funds used for new in-state renewable electricity~~  
12 ~~generation facilities pursuant to this section shall be expended in~~  
13 ~~accordance with the commission's five-year investment plan and~~  
14 ~~this chapter, subject to all of the following requirements:~~

15 ~~(1) In order to cover the above market costs of eligible~~  
16 ~~renewable energy resources as approved by the Public Utilities~~  
17 ~~Commission and selected by retail sellers to fulfill their~~  
18 ~~obligations under Article 16 (commencing with Section 399.11)~~  
19 ~~of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities~~  
20 ~~Code, the commission shall award funds in the form of~~  
21 ~~supplemental energy payments, subject to the following criteria:~~

22 ~~(A) The commission may establish caps on supplemental~~  
23 ~~energy payments. The caps shall be designed to provide for a~~  
24 ~~viable energy market capable of achieving the goals of Article 16~~  
25 ~~(commencing with Section 399.11) of Chapter 2.3 of Part 1 of~~  
26 ~~Division 1 of the Public Utilities Code. The commission may~~  
27 ~~waive application of the caps to accommodate a facility, if it is~~  
28 ~~demonstrated to the satisfaction of the commission that operation~~  
29 ~~of the facility would provide substantial economic and~~  
30 ~~environmental benefits to end-use customers subject to the~~  
31 ~~renewable energy public goods charge.~~

32 ~~(B) Supplemental energy payments shall be awarded only to~~  
33 ~~facilities that are eligible for funding under this section.~~

34 ~~(C) Supplemental energy payments awarded to facilities~~  
35 ~~selected by an electrical corporation pursuant to Article 16~~  
36 ~~(commencing with Section 399.11) of Chapter 2.3 of Part 1 of~~  
37 ~~Division 1 of the Public Utilities Code shall be paid for no longer~~  
38 ~~than 10 years, but shall, subject to the payment caps in~~  
39 ~~subparagraph (A), be equal to the cumulative above-market costs~~  
40 ~~relative to the applicable market price referent at the time of~~

1 initial contracting, over the duration of the contract with the  
2 electrical corporation.

3 ~~(D) The commission shall reduce or terminate supplemental~~  
4 ~~energy payments for projects that fail either to commence and~~  
5 ~~maintain operations consistent with the contractual obligations to~~  
6 ~~an electrical corporation or that fail to meet eligibility~~  
7 ~~requirements.~~

8 ~~(E) Funds shall be managed in an equitable manner in order~~  
9 ~~for retail sellers to meet their obligation under Article 16~~  
10 ~~(commencing with Section 399.11) of Chapter 2.3 of Part 1 of~~  
11 ~~Division 1 of the Public Utilities Code.~~

12 ~~(F) A project selected by an electrical corporation may receive~~  
13 ~~supplemental energy payments only if it results from a~~  
14 ~~competitive solicitation that is found by the Public Utilities~~  
15 ~~Commission to comply with the California Renewables Portfolio~~  
16 ~~Standard Program under Article 16 (commencing with Section~~  
17 ~~399.11) of Chapter 2.3 of Part 1 of Division 1 of the Public~~  
18 ~~Utilities Code, and the project has entered into an electricity~~  
19 ~~purchase agreement resulting from that solicitation, that is~~  
20 ~~approved by the Public Utilities Commission. A project selected~~  
21 ~~for an electricity purchase agreement by another retail seller may~~  
22 ~~receive supplemental energy payments only if the retail seller~~  
23 ~~demonstrates to the Public Utilities Commission that the~~  
24 ~~selection of the project is consistent with the results of a~~  
25 ~~least-cost and best-fit process, and the supplemental energy~~  
26 ~~payments are reasonable in comparison to those paid under~~  
27 ~~similar contracts with other retail sellers. The commission shall~~  
28 ~~not award supplemental energy payments to service load that is~~  
29 ~~not subject to the renewable energy public goods charge.~~

30 ~~(2) A facility that is located outside of California shall not be~~  
31 ~~eligible for funding under this section unless it meets all of the~~  
32 ~~following requirements:~~

33 ~~(A) It is located near the border of the state with its first point~~  
34 ~~of interconnection to the Western Electricity Coordinating~~  
35 ~~Council (WECC) transmission system located within the state.~~

36 ~~(B) It is developed with guaranteed contracts to sell its~~  
37 ~~generation to end-use customers subject to the funding~~  
38 ~~requirements of Sections 381 and 399.8 of the Public Utilities~~  
39 ~~Code, and Section 25620.15, or to marketers that provide this~~  
40 ~~guarantee for resale of the generation, for a period of time at least~~

1 equal to the amount of time it receives incentive payments under  
2 this subdivision.

3 ~~(C) It will not cause or contribute to a violation of a state~~  
4 ~~environmental quality standard or requirement.~~

5 ~~(D) If the facility is outside of the United States, it is~~  
6 ~~developed and operated in a manner that is as protective of the~~  
7 ~~environment as a similar facility located in the state.~~

8 ~~(E) It meets any other condition established by the~~  
9 ~~commission.~~

10 ~~(3) Facilities that are eligible to receive funding pursuant to~~  
11 ~~this section shall be registered in accordance with criteria~~  
12 ~~developed by the commission and those facilities shall not~~  
13 ~~receive payments for any electricity produced that has any of the~~  
14 ~~following characteristics:~~

15 ~~(A) Is sold under an existing long-term contract with an~~  
16 ~~existing in-state electrical corporation if the contract includes~~  
17 ~~fixed energy or capacity payments, except for that electricity that~~  
18 ~~satisfies subparagraph (C) of paragraph (1) of subdivision (c) of~~  
19 ~~Section 25740.5, but does not receive funding pursuant to that~~  
20 ~~section.~~

21 ~~(B) Is used onsite.~~

22 ~~(C) Is a hydroelectric generation project that will require a~~  
23 ~~new or increased appropriation of water under Part 2~~  
24 ~~(commencing with Section 1200) of Division 2 of the Water~~  
25 ~~Code.~~

26 ~~(D) Is a solid waste conversion facility, unless the facility~~  
27 ~~meets the criteria established in paragraph (3) of subdivision (a)~~  
28 ~~of Section 25741 and the facility certifies that a local agency~~  
29 ~~sending solid waste to the facility is in compliance with Division~~  
30 ~~30 (commencing with Section 40000), has reduced, recycled, or~~  
31 ~~composted solid waste to the maximum extent feasible, and shall~~  
32 ~~have been found by the California Integrated Waste Management~~  
33 ~~Board to have diverted at least 30 percent of all solid waste~~  
34 ~~through source reduction, recycling, and composting.~~

35 ~~(4) The commission may require applicants competing for~~  
36 ~~funding to post a forfeitable bid bond or other financial guaranty~~  
37 ~~as an assurance of the applicant's intent to move forward~~  
38 ~~expeditiously with the project proposed. The amount of any bid~~  
39 ~~bond or financial guaranty shall not exceed 10 percent of the total~~  
40 ~~amount of the funding requested by the applicant.~~

~~(5) In awarding funding, the commission may provide preference to projects that provide tangible demonstrable benefits to communities with a plurality of minority or low-income populations.~~

~~(e) Repowered existing facilities shall be eligible for funding under this subdivision if the capital investment to repower the existing facility equals at least 80 percent of the value of the repowered facility.~~

~~(d) Facilities engaging in the direct combustion of municipal solid waste or tires are not eligible for funding under this section.~~

~~(e) Production incentives awarded under this section prior to January 1, 2002, shall commence on the date that a project begins electricity production, provided that the project was operational prior to January 1, 2002, unless the commission finds that the project will not be operational prior to January 1, 2002, due to circumstances beyond the control of the developer. Upon making a finding that the project will not be operational due to circumstances beyond the control of the developer, the commission shall pay production incentives over a five-year period, commencing on the date of operation, provided that the date that a project begins electricity production shall not extend beyond January 1, 2007.~~

~~(f) Facilities generating electricity from biomass energy shall be considered an in-state renewable electricity generation facility to the extent that they report to the commission the types and quantities of biomass fuels used and certify to the satisfaction of the commission that fuel utilization is limited to the following:~~

~~(1) Agricultural crops and agricultural wastes and residues.~~

~~(2) Solid waste materials such as waste pallets, crates, dunnage, manufacturing, and construction wood wastes, landscape or right-of-way tree trimmings, mill residues that are directly the result of the milling of lumber, and rangeland maintenance residues.~~

~~(3) Wood and wood wastes that meet all of the following requirements:~~

~~(A) Have been harvested pursuant to an approved timber harvest plan prepared in accordance with the Z'berg-Nejedly Forest Practice Act of 1973 (Chapter 8 (commencing with Section 4511) of Part 2 of Division 4).~~

1 ~~(B) Have been harvested for the purpose of forest fire fuel~~  
2 ~~reduction or forest stand improvement.~~

3 ~~(C) Do not transport or cause the transportation of species~~  
4 ~~known to harbor insect or disease nests outside zones of~~  
5 ~~infestation or current quarantine zones, as identified by the~~  
6 ~~Department of Food and Agriculture or the Department of~~  
7 ~~Forestry and Fire Protection, unless approved by the Department~~  
8 ~~of Food and Agriculture and the Department of Forestry and Fire~~  
9 ~~Protection.~~

10 SEC. 11. Section 25744 of the Public Resources Code is  
11 amended to read:

12 25744. (a) ~~Forty-seven and one-half~~ percent of the  
13 money collected pursuant to the renewable energy public goods  
14 charge shall be used for a multiyear, consumer-based program to  
15 foster the development of emerging renewable technologies in  
16 distributed generation applications.

17 (b) Any funds used for emerging technologies pursuant to this  
18 section shall be expended in accordance with ~~the commission's~~  
19 ~~five-year investment plan and~~ this chapter, subject to all of the  
20 following requirements:

21 (1) Funding for emerging technologies shall be provided  
22 through a competitive, market-based process that is in place for a  
23 period of not less than five years, and is structured to allow  
24 eligible emerging technology manufacturers and suppliers to  
25 anticipate and plan for increased sale and installation volumes  
26 over the life of the program.

27 (2) The program shall provide monetary rebates, buydowns, or  
28 equivalent incentives, subject to paragraph (3), to purchasers,  
29 lessees, lessors, or sellers of eligible electricity generating  
30 systems. Incentives shall benefit the end-use consumer of  
31 renewable generation by directly and exclusively reducing the  
32 purchase or lease cost of the eligible system, or the cost of  
33 electricity produced by the eligible system. Incentives shall be  
34 issued on the basis of the rated electrical generating capacity of  
35 the system measured in watts, or the amount of electricity  
36 production of the system, measured in kilowatthours. Incentives  
37 shall be limited to a maximum percentage of the system price, as  
38 determined by the commission. *The commission may establish*  
39 *different incentive levels for systems based on technology type*

1 *and system size, and may provide different incentive levels for*  
2 *systems used in conjunction with energy-efficiency measures.*

3 (3) Eligible distributed emerging technologies are fuel cell  
4 technologies that utilize renewable fuels, *including fuel cell*  
5 *technologies with an emission profile equivalent or better than*  
6 *the State Air Resources Board 2007 standard that serve as*  
7 *backup generation for emergency, safety, or telecommunications*  
8 *systems. Eligible renewable fuels may include* wind turbines of  
9 not more than 50 kilowatts rated electrical generating capacity  
10 per customer site; and other distributed renewable emerging  
11 technologies that meet the emerging technology eligibility  
12 criteria established by the commission and are not eligible for  
13 rebates, buydowns, or similar incentives from any other  
14 commission or Public Utilities Commission program. Eligible  
15 electricity generating systems are intended primarily to offset  
16 part or all of the consumer's own electricity demand, *including*  
17 *systems that are used as backup power for emergency, safety, or*  
18 *telecommunications*, and shall not be owned by local publicly  
19 owned electric utilities, nor be located at a customer site that is  
20 not receiving distribution service from an electrical corporation  
21 that is subject to the renewable energy public goods charge and  
22 contributing funds to support programs under this chapter. All  
23 eligible electricity generating system components shall be new  
24 and unused, shall not have been previously placed in service in  
25 any other location or for any other application, and shall have a  
26 warranty of not less than five years to protect against defects and  
27 undue degradation of electrical generation output. Systems and  
28 their fuel resources shall be located on the same premises of the  
29 end-use consumer where the consumer's own electricity demand  
30 is located, and all eligible electricity generating systems shall be  
31 connected to the utility grid, *unless the system purpose is for*  
32 *backup generation used in emergency, safety, or*  
33 *telecommunications*, in California. The commission may require  
34 eligible electricity generating systems to have meters in place to  
35 monitor and measure a system's performance and generation.  
36 Only systems that will be operated in compliance with applicable  
37 law and the rules of the Public Utilities Commission shall be  
38 eligible for funding.

39 (4) The commission shall limit the amount of funds available  
40 for a system or project of multiple systems and reduce the level



1 of funding for a system or project of multiple systems that has  
2 received, or may be eligible to receive, any government or utility  
3 funds, incentives, or credit.

4 (5) In awarding funding, the commission may provide  
5 preference to systems that provide tangible demonstrable benefits  
6 to communities with a plurality of minority or low-income  
7 populations.

8 (6) In awarding funding, the commission shall develop and  
9 implement eligibility criteria and a system that provides  
10 preference to systems based upon system performance, taking  
11 into account factors, including shading, insulation levels, and  
12 installation orientation.

13 (7) At least once annually, the commission shall publish and  
14 make available to the public the balance of funds available for  
15 emerging renewable energy resources for rebates, buydowns, and  
16 other incentives for the purchase of these resources.

17 (c) Notwithstanding Section 27540.5, the commission may  
18 expend, until December 31, 2008, up to sixty million dollars  
19 (\$60,000,000) of the funding allocated to the Renewable  
20 Resources Trust Fund for the program established in this section,  
21 subject to the repayment requirements of subdivision (f) of  
22 Section 25751.

23 (d) Any funds for photovoltaic or solar thermal electric  
24 ~~technologies shall be awarded in compliance with Chapter 8.8~~  
25 ~~(commencing with Section 25780) if that chapter is added by~~  
26 ~~Senate Bill No. 1 of the 2005-06 Regular Session, and not this~~  
27 ~~section. technologies shall not exceed a cumulative amount of~~  
28 ~~four hundred million dollars (\$400,000,000) for the 2007-2017~~  
29 ~~investment cycle.~~

30 ~~SEC. 12. Section 25745 of the Public Resources Code is~~  
31 ~~repealed.~~

32 *SEC. 12. Section 25745 of the Public Resources Code is*  
33 *amended to read:*

34 25745. (a) ~~Ten percent of the money collected pursuant to~~  
35 ~~the renewable energy public goods charge shall be used to~~  
36 ~~provide customer credits to customers that entered into a direct~~  
37 ~~transaction on or before September 20, 2001, for purchases of~~  
38 ~~electricity produced by registered in-state renewable electricity~~  
39 ~~generating facilities.~~

40 (b)

(a) Any funds used for customer credits pursuant to this section ~~shall be expended, that were available to provide customer credits to customers that entered into a direct transaction on or before September 20, 2001, for purchases of electricity produced by registered in-state renewable electricity generating facilities, are hereby suspended. The suspension shall be in effect until such time as determined by \_\_\_\_\_ pursuant to Section 80110 of the Water Code, or until subsequent legislative action has expressly lifted the suspension of direct-access electricity services.~~

(b) After the Legislature provides further legislative action that lifts the suspension of direct-access, any funds, pursuant to this section and as provided in the report, shall be subject to all of the following requirements:

(1) Customer credits shall be awarded to California retail customers located in the service territory of an electrical corporation that is subject to the renewable energy public goods charge that is contributing funds to support programs under this chapter, and that is purchasing qualifying electricity from renewable electricity generating facilities, through transactions traceable to specific generation sources by any auditable contract trail or equivalent that provides commercial verification that the electricity from the claimed renewable electricity generating facilities has been sold once and only once to a retail customer.

(2) Credits awarded pursuant to this paragraph may be paid directly to electric service providers, energy marketers, aggregators, or generators if those persons or entities account for the credits on the recipient customer's bills. Credits may not exceed one and one-half cents (\$0.015) per kilowatthour. Credits awarded to members of the combined class of customers, other than residential and small commercial customers, may not exceed one thousand dollars (\$1,000) per customer per calendar year. In no event may more than 20 percent of the total customer incentive funds be awarded to members of the combined class of customers other than residential and small commercial customers.

(3) The commission shall develop criteria and procedures for the identification of energy purchasers and providers that are eligible to receive funds pursuant to this paragraph through a process consistent with this paragraph. These criteria and

1 procedures shall apply only to funding eligibility and may not  
2 extend to other renewable marketing claims.

3 (4) Customer credits may not be awarded for the purchase of  
4 electricity that is used to meet the obligations of a renewable  
5 portfolio standard.

6 (5) The Public Utilities Commission shall notify the  
7 commission in writing within 10 days of revoking or suspending  
8 the registration of any electric service provider pursuant to  
9 paragraph (4) of subdivision (b) of Section 394.25 of the Public  
10 Utilities Code.

11 SEC. 13. Section 25746 of the Public Resources Code is  
12 amended to read:

13 25746. ~~=====~~(a) One percent of the money collected pursuant  
14 to the renewable energy public goods charge shall be used in  
15 accordance with ~~the commission's five-year investment plan and~~  
16 this chapter to promote renewable energy and disseminate  
17 information on renewable energy technologies, including  
18 emerging renewable technologies, and to help develop a  
19 consumer market for renewable energy and for small-scale  
20 emerging renewable energy technologies.

21 (b) *If the commission provides funding for a regional*  
22 *accounting system to verify compliance with the renewable*  
23 *portfolio standard by retail sellers, pursuant to subdivision (b) of*  
24 *Section 399.13 of the Public Utilities Code, the commission shall*  
25 *do both of the following:*

26 (1) *Fund not more than California's proportional share of the*  
27 *development and operational costs. California's proportional*  
28 *share shall be determined by the number of in-state renewable*  
29 *energy-generated megawatts tracked by the system.*

30 (2) *Recover the commission's costs, to the maximum extent*  
31 *possible, from user fees.*

32 SEC. 14. Section 25747 of the Public Resources Code is  
33 amended to read:

34 25747. (a) The commission shall adopt guidelines governing  
35 the funding programs authorized under this chapter, at a publicly  
36 noticed meeting offering all interested parties an opportunity to  
37 comment. Substantive changes to the guidelines may not be  
38 adopted without at least 10 days' written notice to the public. The  
39 public notice of meetings required by this subdivision may not be  
40 less than 30 days. Notwithstanding any other provision of law,

1 any guidelines adopted pursuant to this chapter or Section 399.13  
2 of the Public Utilities Code, shall be exempt from the  
3 requirements of Chapter 3.5 (commencing with Section 11340)  
4 of Part 1 of Division 3 of Title 2 of the Government Code. The  
5 Legislature declares that the changes made to this subdivision by  
6 the act amending this section during the 2002 portion of the  
7 2001–02 Regular Session are declaratory of, and not a change in  
8 existing law.

9 (b) Funds to further the purposes of this chapter may be  
10 committed for multiple years.

11 (c) Awards made pursuant to this chapter are grants, subject to  
12 appeal to the commission upon a showing that factors other than  
13 those described in the guidelines adopted by the commission  
14 were applied in making the awards and payments. Any actions  
15 taken by an applicant to apply for, or become or remain eligible  
16 and registered to receive, payments or awards, including  
17 satisfying conditions specified by the commission, shall not  
18 constitute the rendering of goods, services, or a direct benefit to  
19 the commission.

20 *(d) An award made pursuant to this chapter, the amount of the*  
21 *award, and the terms and conditions of the grant are public*  
22 *information.*

23 ~~SEC. 14.~~

24 SEC. 15. Section 25748 of the Public Resources Code is  
25 amended to read:

26 25748. (a) The commission shall report to the Legislature on  
27 or before November 1, 2007, and annually thereafter, regarding  
28 the results of the mechanisms funded pursuant to this chapter.  
29 The report shall contain all of the following:

30 (1) A description of the allocation of funds among existing,  
31 new, and emerging technologies, the allocation of funds among  
32 programs, including consumer-side incentives, and the need for  
33 the reallocation of money among those technologies.

34 (2) The status of account transfers and repayments.

35 (3) A description of the cumulative commitment of claims by  
36 account, the relative demand for funds by account, and a forecast  
37 of future awards.

38 (4) A list identifying the types and quantities of biomass fuels  
39 used by facilities receiving funds pursuant to Section 25742 or  
40 25743 and their impacts on improving air quality.

1 (5) A discussion of the progress being made toward achieving  
2 the targets established under Section 25740 by each funding  
3 category authorized pursuant to this chapter.

4 (6) A description of the allocation of funds from interest on  
5 the accounts described in this chapter, and money in the accounts  
6 described in subdivision (b) of Section 25751.

7 (7) An itemized list, including project descriptions, award  
8 amounts, and outcomes for projects awarded funding in the prior  
9 year.

10 (8) Other matters the commission determines may be of  
11 importance to the Legislature.

12 (b) Money may be reallocated without further legislative  
13 action among existing, new, and emerging technologies and  
14 consumer-side programs in a manner consistent with the report  
15 and with the latest report provided to the Legislature pursuant to  
16 this section, except that reallocations shall not reduce the  
17 allocation established in Section 25743 nor increase the  
18 allocation established in Section 25742.

19 ~~SEC. 15.~~

20 *SEC. 16.* Section 25749 of the Public Resources Code is  
21 repealed.

22 ~~SEC. 16.~~

23 *SEC. 17.* Section 25750 of the Public Resources Code is  
24 repealed.

25 ~~SEC. 17.~~

26 *SEC. 18.* Section 25751 of the Public Resources Code is  
27 amended to read:

28 25751. (a) The Renewable Resource Trust Fund is hereby  
29 created in the State Treasury.

30 (b) The following accounts are hereby established within the  
31 Renewable Resource Trust Fund:

32 (1) The Existing Renewable Resources Account.

33 (2) New Renewable Resources Account.

34 (3) Emerging Renewable Resources Account.

35 (4) *Customer-Credit Renewable Resource Purchases Account.*

36 ~~(4)~~

37 (5) Renewable Resources Consumer Education Account.

38 (c) The money in the fund may be expended for the state's  
39 administration of this article only upon appropriation by the  
40 Legislature in the annual Budget Act.

(d) That portion of revenues collected by electrical corporations for the benefit of in-state operation and development of existing and new and emerging renewable resource technologies, pursuant to Section 399.8 of the Public Utilities Code, shall be transmitted to the commission at least quarterly for deposit in the Renewable Resource Trust Fund pursuant to Section 25740.5. After setting aside in the fund money that may be needed for expenditures authorized by the annual Budget Act in accordance with subdivision (c), the Treasurer shall immediately deposit money received pursuant to this section into the accounts created pursuant to subdivision (b) in proportions designated by the commission for the current calendar year. *Notwithstanding Section 13340 of the Government Code, the money in the fund and the accounts within the fund are hereby continuously appropriated to the commission without regard to fiscal year for the purposes enumerated in this chapter.*

(e) Upon notification by the commission, the Controller shall pay all awards of the money in the accounts created pursuant to subdivision (b) for purposes enumerated in this chapter. The eligibility of each award shall be determined solely by the commission based on the procedures it adopts under this chapter. Based on the eligibility of each award, the commission shall also establish the need for a multiyear commitment to any particular award and so advise the Department of Finance. Eligible awards submitted by the commission to the Controller shall be accompanied by information specifying the account from which payment should be made and the amount of each payment; a summary description of how payment of the award furthers the purposes enumerated in this chapter; and an accounting of future costs associated with any award or group of awards known to the commission to represent a portion of a multiyear funding commitment.

(f) The commission may transfer funds between accounts for cashflow purposes, provided that the balance due each account is restored and the transfer does not adversely affect any of the accounts.

(g) The Department of Finance shall conduct an independent audit of the Renewable Resource Trust Fund and its related accounts annually, and provide an audit report to the Legislature not later than March 1 of each year for which this article is

operative. The Department of Finance's report shall include information regarding revenues, payment of awards, reserves held for future commitments, unencumbered cash balances, and other matters that the Director of Finance determines may be of importance to the Legislature.

~~SEC. 18.~~

*SEC. 19.* Section 381 of the Public Utilities Code is amended to read:

381. (a) To ensure that the funding for the programs described in subdivision (b) and Section 382 are not commingled with other revenues, the commission shall require each electrical corporation to identify a separate rate component to collect the revenues used to fund these programs. The rate component shall be a nonbypassable element of the local distribution service and collected on the basis of usage.

(b) The commission shall allocate funds collected pursuant to subdivision (a), and any interest earned on collected funds, to programs that enhance system reliability and provide in-state benefits as follows:

(1) Cost-effective energy efficiency and conservation activities.

(2) Public interest research and development not adequately provided by competitive and regulated markets.

(3) In-state operation and development of existing and new and emerging eligible renewable energy resources, as defined in Section 399.12.

(c) The Public Utilities Commission shall order the respective electrical corporations to collect and spend these funds at the levels and for the purposes required in Section 399.8.

(d) Each electrical corporation shall allow customers to make voluntary contributions through their utility bill payments as either a fixed amount or a variable amount to support programs established pursuant to paragraph (3) of subdivision (b). Funds collected by electrical corporations for these purposes shall be forwarded in a timely manner to the appropriate fund as specified by the commission.

~~SEC. 19.~~

*SEC. 20.* Section 383 of the Public Utilities Code is repealed.

1     ~~SEC. 20.~~

2     *SEC. 21.* Section 383.6 of the Public Utilities Code is  
3 repealed.

4     ~~SEC. 21.~~

5     *SEC. 22.* Section 384.1 of the Public Utilities Code is  
6 repealed.

7     ~~SEC. 22.~~

8     *SEC. 23.* Section 399 of the Public Utilities Code, as added  
9 by Section 4 of Chapter 1050 of the Statutes of 2000, is amended  
10 to read:

11     399. (a) This article shall be known, and may be cited, as the  
12 Reliable Electric Service Investments Act.

13     (b) The Legislature finds and declares that safe, reliable  
14 electric service is of utmost importance to the citizens of this  
15 state, and its economy.

16     (c) The Legislature further finds and declares that in order to  
17 ensure that the citizens of this state continue to receive safe,  
18 reliable, affordable, and environmentally sustainable electric  
19 service, it is essential that prudent investments continue to be  
20 made in all of the following areas:

21     (1) To protect the integrity of the electric distribution grid.

22     (2) To ensure an adequately sized and trained utility  
23 workforce.

24     (3) To ensure cost-effective energy efficiency improvements.

25     (4) To achieve a sustainable supply of renewable energy.

26     (5) To advance public interest research, development and  
27 demonstration programs not adequately provided by competitive  
28 and regulated markets.

29     (d) It is the intent of the Legislature to reaffirm, without  
30 requiring revision, California's doctrine, as reflected in  
31 regulatory and judicial decisions, regarding electrical  
32 corporations' reasonable opportunity to recover costs and  
33 investments associated with their electric distribution grid and  
34 the reasonable opportunity to attract capital for investment on  
35 reasonable terms.

36     (e) The Legislature further finds and declares all of the  
37 following:

38     (1) Acting under applicable constitutional and statutory  
39 authorities, the Public Utilities Commission and the boards of  
40 local publicly owned electric utilities have included in regulated



1 electricity prices, investments that are essential to maintaining  
2 system reliability, reducing California electricity users' bills, and  
3 mitigating environmental costs of California users' electricity  
4 consumption.

5 (2) Among the most important of these "system benefits"  
6 investments categories are energy efficiency, renewable energy,  
7 and public interest research, development and demonstration  
8 (RD&D).

9 (3) Energy efficiency investments funded from California's  
10 usage-based charges on electricity distribution help improve  
11 systemwide reliability by reducing demand in times and areas of  
12 system congestion, and at the same time reduce all California  
13 electricity users' costs. These investments also significantly  
14 reduce environmental costs associated with California's  
15 electricity consumption, including, but not limited to,  
16 degradation of the state's air, water, and land resources.

17 (4) California's in-state renewable energy resources help  
18 alleviate supply deficits that could threaten electric system  
19 reliability, reduce environmental costs associated with  
20 California's electricity consumption, and increase the diversity of  
21 the electricity system's fuel mix, reducing electricity users'  
22 exposure to fossil-fuel price volatility.

23 (5) California's public interest RD&D investments enhance  
24 private and regulated sector investment in electricity system  
25 technologies, and are designed specifically to help ensure  
26 sustained improvement in the economic and environmental  
27 performance of the distribution, transmission, and generation and  
28 end-use systems that serve California electricity users.

29 (6) California has established a long tradition of recovering  
30 system benefits investments through usage-based electricity  
31 charges, which is reflected in at least two decades of electricity  
32 price regulation by the commission, the boards of local publicly  
33 owned electric utilities, and the mandate of the Legislature in  
34 Chapter 854 of the Statutes of 1996 (Assembly Bill 1890 of the  
35 1995–96 Regular Session of the Legislature) and Chapter 905 of  
36 the Statutes of 1997 (Senate Bill 90 of the 1997–98 Regular  
37 Session of the Legislature).

38 (7) Unless the Legislature acts to extend the mandate of this  
39 article for minimum levels of usage based system benefits  
40 charges, California electricity users are at substantial risk of

1 higher economic and environmental costs and degraded  
2 reliability.

3 ~~SEC. 23.~~

4 ~~SEC. 24.~~ Section 399 of the Public Utilities Code, as added  
5 by Section 4 of Chapter 1051 of the Statutes of 2000, is repealed.

6 ~~SEC. 24.~~

7 ~~SEC. 25.~~ Section 399.1 of the Public Utilities Code, as added  
8 by Section 4 of Chapter 1051 of the Statutes of 2000, is repealed.

9 ~~SEC. 25.~~

10 ~~SEC. 26.~~ Section 399.2 of the Public Utilities Code, as added  
11 by Section 4 of Chapter 1051 of the Statutes of 2000, is repealed.

12 ~~SEC. 26.~~

13 ~~SEC. 27.~~ Section 399.3 of the Public Utilities Code, as added  
14 by Section 4 of Chapter 1051 of the Statutes of 2000, is repealed.

15 ~~SEC. 27.~~

16 ~~SEC. 28.~~ Section 399.4 of the Public Utilities Code, as added  
17 by Section 4 of Chapter 1050 of the Statutes of 2000, is amended  
18 to read:

19 399.4. (a) (1) In order to ensure that prudent investments in  
20 energy efficiency continue to be made that produce cost-effective  
21 energy savings, reduce customer demand, and contribute to the  
22 safe and reliable operation of the electric distribution grid, it is  
23 the policy of this state and the intent of the Legislature that the  
24 commission shall continue to administer cost-effective energy  
25 efficiency programs authorized pursuant to existing statutory  
26 authority.

27 (2) As used in this section, the term “energy efficiency”  
28 includes, but is not limited to, cost-effective activities to achieve  
29 peak load reduction that improve end-use efficiency, lower  
30 customers’ bills, and reduce system needs.

31 (b) The commission, in evaluating energy efficiency  
32 investments under its existing statutory authority, shall also  
33 ensure that local and regional interests, multifamily dwellings,  
34 and energy service industry capabilities are incorporated into  
35 program portfolio design and that local governments,  
36 community-based organizations, and energy efficiency service  
37 providers are encouraged to participate in program  
38 implementation where appropriate.

1     ~~SEC. 28.~~

2     *SEC. 29.* Section 399.4 of the Public Utilities Code, as added  
3 by Section 4 of Chapter 1051 of the Statutes of 2000, is repealed.

4     ~~SEC. 29.~~

5     *SEC. 30.* Section 399.6 of the Public Utilities Code is  
6 repealed.

7     ~~SEC. 30.~~

8     *SEC. 31.* Section 399.7 of the Public Utilities Code is  
9 repealed.

10    ~~SEC. 31.~~

11    *SEC. 32.* Section 399.8 of the Public Utilities Code is  
12 amended to read:

13    399.8. (a) In order to ensure that the citizens of this state  
14 continue to receive safe, reliable, affordable, and  
15 environmentally sustainable electric service, it is the policy of  
16 this state and the intent of the Legislature that prudent  
17 investments in energy efficiency, renewable energy, and  
18 research, development and demonstration shall continue to be  
19 made.

20    (b) (1) Every customer of an electrical corporation shall pay a  
21 nonbypassable system benefits charge authorized pursuant to this  
22 article. The system benefits charge shall fund energy efficiency,  
23 renewable energy, and research, development and demonstration.

24    (2) Local publicly owned electric utilities shall continue to  
25 collect and administer system benefits charges pursuant to  
26 Section 385.

27    (c) (1) The commission shall require each electrical  
28 corporation to identify a separate rate component to collect  
29 revenues to fund energy efficiency, renewable energy, and  
30 research, development and demonstration programs authorized  
31 pursuant to this section beginning January 1, 2002, through  
32 January 1, 2012. The rate component shall be a nonbypassable  
33 element of the local distribution service and collected on the  
34 basis of usage.

35    (2) This rate component may not exceed, for any tariff  
36 schedule, the level of the rate component that was used to  
37 recover funds authorized pursuant to Section 381 on January 1,  
38 2000. If the amounts specified in paragraph (1) of subdivision (d)  
39 are not recovered fully in any year, the commission shall reset  
40 the rate component to restore the unrecovered balance, provided

1 that the rate component may not exceed, for any tariff schedule,  
2 the level of the rate component that was used to recover funds  
3 authorized pursuant to Section 381 on January 1, 2000. Pending  
4 restoration, any annual shortfalls shall be allocated pro rata  
5 among the three funding categories in the proportions established  
6 in paragraph (1) of subdivision (d).

7 (d) The commission shall order San Diego Gas and Electric  
8 Company, Southern California Edison Company, and Pacific Gas  
9 and Electric Company to collect these funds commencing on  
10 January 1, 2002, as follows:

11 (1) Two hundred twenty-eight million dollars (\$228,000,000)  
12 per year in total for energy efficiency and conservation activities,  
13 one hundred thirty-five million dollars (\$135,000,000) in total  
14 per year for renewable energy, and sixty-two million five  
15 hundred thousand dollars (\$62,500,000) in total per year for  
16 research, development and demonstration. The funds for energy  
17 efficiency and conservation activities shall continue to be  
18 allocated in proportions established for the year 2000 as set forth  
19 in paragraph (1) of subdivision (c) of Section 381.

20 (2) The amounts shall be adjusted annually at a rate equal to  
21 the lesser of the annual growth in electric commodity sales or  
22 inflation, as defined by the gross domestic product deflator.

23 (e) The commission and the Energy Commission shall retain  
24 and continue their oversight responsibilities as set forth in  
25 Sections 381 and 383, and Chapter 7.1 (commencing with  
26 Section 25620) and Chapter 8.6 (commencing with Section  
27 25740) of Division 15 of the Public Resources Code.

28 (f) An applicant for the Large Nonresidential Standard  
29 Performance Contract Program funded pursuant to paragraph (1)  
30 of subdivision (b) and an electrical corporation shall promptly  
31 attempt to resolve disputes that arise related to the program's  
32 guidelines and parameters prior to entering into a program  
33 agreement. The applicant shall provide the electrical corporation  
34 with written notice of any dispute. Within 10 business days after  
35 receipt of the notice, the parties shall meet to resolve the dispute.  
36 If the dispute is not resolved within 10 business days after the  
37 date of the meeting, the electrical corporation shall notify the  
38 applicant of his or her right to file a complaint with the  
39 commission, which complaint shall describe the grounds for the  
40 complaint, injury, and relief sought. The commission shall issue

1 its findings in response to a filed complaint within 30 business  
2 days of the date of receipt of the complaint. Prior to issuance of  
3 its findings, the commission shall provide a copy of the  
4 complaint to the electrical corporation, which shall provide a  
5 response to the complaint to the commission within five business  
6 days of the date of receipt. During the dispute period, the amount  
7 of estimated financial incentives shall be held in reserve until the  
8 dispute is resolved.

9 ~~SEC. 32.~~

10 ~~SEC. 33.~~ Section 399.9 of the Public Utilities Code, as added  
11 by Section 4 of Chapter 1051 of the Statutes of 2000, is repealed.

12 ~~SEC. 33.~~

13 ~~SEC. 34.~~ Section 895 of the Public Utilities Code is amended  
14 to read:

15 895. Notwithstanding Section 13340 of the Government  
16 Code, moneys in the Gas Consumption Surcharge Fund are  
17 continuously appropriated, without regard to fiscal years, as  
18 follows:

19 (a) To the commission or an entity designated by the  
20 commission to fund programs described in subdivision (a) of  
21 Section 890. *If the commission designates the State Energy  
22 Resources Conservation and Development Commission to  
23 receive funds for public interest research and development, both  
24 of the following shall apply:*

25 *(1) The Controller shall transfer funds to a separate  
26 subaccount within the Public Interest Research, Development,  
27 and Demonstration Fund to pay the State Energy Resources  
28 Conservation and Development Commission for its costs in  
29 carrying out its duties and responsibilities under this article.*

30 *(2) The State Energy Resources Conservation and  
31 Development Commission may administer the program pursuant  
32 to Chapter 7.1 (commencing with Section 25620) of Division 15  
33 of the Public Resources Code.*

34 (b) To pay the commission for its costs in carrying out its  
35 duties and responsibilities under this article.

36 (c) To pay the State Board of Equalization for its costs in  
37 administering this article.

38 ~~SEC. 34.~~

39 ~~SEC. 35.~~ This act is an urgency statute necessary for the  
40 immediate preservation of the public peace, health, or safety

1 within the meaning of Article IV of the Constitution and shall go  
2 into immediate effect. The facts constituting the necessity are:  
3 In order to avoid disruption in renewable energy and public  
4 interest research, development and demonstration programs, and  
5 to maximize the effectiveness of energy efficiency programs,  
6 thereby promoting the public health and welfare, it is necessary  
7 that this act take effect immediately.

O